

Notice of Allowability

Application No.

10/078,817

Examiner

John P. Trimmings

Applicant(s)

MANLEY ET AL.

Art Unit

2138

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment dated 11/21/2005.
2. ☒ The allowed claim(s) is/are 1, 3-5, 7-15, 17-18, 20, 22-25, 27-28 and 30-32, renumbered 1-25.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

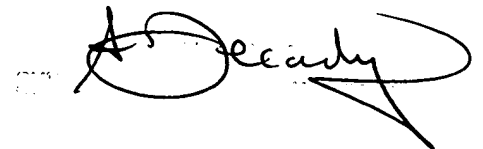
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____



DETAILED ACTION

This office action is in response to the applicant's amendment dated 11/21/2005.

The applicant has amended Claims 1, 15, 20, 25 and 28.

Claims 1, 3-5, 7-15, 17-18, 20, 22-25, 27-28 and 30-32 are pending.

Response to Arguments

1. Applicant's arguments (see amendment and declaration, filed 11/21/2005), with respect to the rejections of Claims 1, 15, 20, 25 and 28 under 35 USC 103, have been fully considered and are persuasive. The rejections under 35 USC 103 of Claims 1, 15, 20, 25 and 28 have been withdrawn. Consequently the rejections of dependent Claims 3-5, 7-14, 17, 18, 22-24, 27 and 30-32 are also withdrawn.

Double Patenting

2. In view of the applicant's acknowledgement of the provisional double patenting rejection in the amendment dated 11/21/2005, the examiner withdraws the provision double patenting rejections of Claims 1, 3, 4, 5, 7, 9 and 10 in lieu of a terminal disclaimer in the later co-pending application, 10/099,335.

Allowable Subject Matter

3. Claims 1, 3-5, 7-15, 17-18, 20, 22-25, 27-28 and 30-32 are allowed, and are renumbered as Claims 1-25.

The following is a statement of reasons for the indication of allowable subject

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matter: The examiner accepts the applicant's argument and reasons for allowable subject matter entered into the record 11/21/2005.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Trimmings whose telephone number is (571) 272-3830. The examiner can normally be reached on Monday through Thursday, 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John P Trimmings
Examiner
Art Unit 2138

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